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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/588,611

08/07/2006

Kazuo Hattori

HATTORI 3

9229

1444 7590 10/20/2009
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EXAMINER

DAVIS, ZINNA NORTHINGTON

ART UNIT

PAPER NUMBER

1625

MAIL DATE

DELIVERY MODE

10/20/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/588,611	Applicant(s) HATTORI ET AL.	
	Examiner Zinna Northington Davis	Art Unit 1625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8-12, 19, and 21-23 is/are rejected.
- 7) ☒ Claim(s) 4-7, 13-18 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

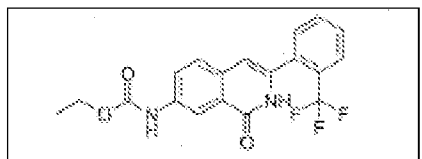
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/10/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-23 are pending.
2. In the response filed July 15, 2009, Applicants have elected Group I, claims 1-21, with traverse. The compound of Example 61 is the preferred species. Example 61 is depicted below:



3. Based upon response filed July 15, 2009, the restriction requirement and election of species is withdrawn. The claims are examined as a whole.
4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1 and 8-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. At claim 1, page 4, the definition of the R² is confusing as written. For instance, R² is defined as:

1) a C₁₋₈ alkyl group substituted with one or more substituents selected from Group B, -COOR³, -COR⁴, -COSR⁵, -CONR⁶R⁷, -NR²²R²³, or -N=CR²⁴R²⁵; or

2) R¹ and R², may together with a nitrogen atom to which they are bonded, may form a 4- to 10-membered hetero ring containing at least one nitrogen atom.

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R^2 does not represent $-\text{COOR}^3$, $-\text{COR}^4$, $-\text{COSR}^5$, $-\text{CONR}^6\text{R}^7$, $-\text{NR}^{22}\text{R}^{23}$, or $-\text{N}=\text{CR}^{24}\text{R}^{25}$. Clarification is appreciated.

B. Claims 8-12 improperly depend upon claim 1. See the rejection above.

C. Claims 22 and 23 are essential duplicates of claim 21.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3 and 21-23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Behrens [(U. S. Patent 4,942,163, (Reference AA, cited by Applicants)].

The instantly claimed compounds are disclosed. At column 12, lines 10-33,

Table 1, See examples 4, 10, and 11. The Table is depicted below:

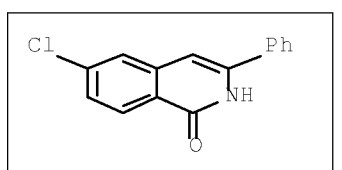
TABLE 1					
Ex.	R ¹	R ²	R ³	R ⁴	mp (°)
1	H	H	H	H	225-226
2	H	H	Cl	H	260-262
3	H	H	Me	H	221-222
4	H	H	NMe ₃ HCl	H	244
5	H	H	+NMe ₃ I ⁻	H	207
6	Cl	H	H	H	
7	Me	H	H	H	244-245
8	H	Cl	H	H	
9	H	Me	H	H	241-242
10	H	H	NEt ₃ HCl	H	
11	H	H	N(p-Pr) ₃ HCl	H	
12	H	H	+NEt ₃ I ⁻	H	
13	H	H	+N(p-Pr) ₃ I ⁻	H	
14	H	H	H	Cl	
15	H	H	H	Me	235-236

The claims are fully met when X is aryl, Y¹ and Y⁴ are hydrogen, R² is hydrogen,

Y^3 is NR^1R^2 , and R^1 and R^2 are alkyl.

8. Claim 19 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Izumi et al. (Reference U, cited by the Examiner.)

The instantly claimed compound is disclosed. At page 147, Figure 5, see compound 6. The compound is depicted below:



The claims are fully met when X is phenyl and L is a halogen atom.

9. The Information Disclosure Statements filed October 10, 2006 has been considered.

10. Claims 4-7, 13-18, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zinna Northington Davis whose telephone number is 571-272-0682.

12. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Zinna Northington Davis/
Zinna Northington Davis
Primary Examiner
Art Unit 1625

Znd
10.15.2009